

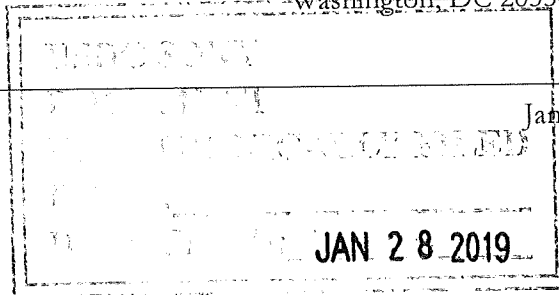
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U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L St. NW
Washington, DC 20530

By ECF

The Honorable Alison J. Nathan
United States District Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007



Re: *NAACP Legal Defense & Educational Fund, Inc. v. U.S. Dep't of Justice*, No. 18-cv-9363 (AJN)

Dear Judge Nathan:

Defendant hereby moves for a stay of all deadlines and the upcoming pre-trial conference in the above-captioned case in light of the lapse of appropriations.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. This lapse affects the Department in its litigating capacity in this case, and also as the Defendant in this case. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and other furloughed employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

3. Undersigned counsel for the Department of Justice therefore requests a stay of this case until Congress has restored appropriations to the Department.


4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations and the pretrial conference be rescheduled.

5. Undersigned counsel has conferred with counsel for Plaintiff. Plaintiff does not oppose vacating the February 8 pre-trial conference and other deadlines that occur prior to February 15, 2019. However, instead of a stay, Plaintiff requests that the parties be required to file a Joint Status Report updating the Court and proposing a schedule for further proceedings either within fourteen days of the restoration of funding or by February 15, 2019, whichever occurs first. Plaintiff also requests that the Court order Defendant to resume processing Plaintiff's FOIA request immediately upon the restoration of appropriations.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of all deadlines until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

In light of the restoration of funding to the Department of Justice, the request to stay all deadlines and adjourn the initial pretrial conference is denied as moot. SO ORDERED.

SO ORDERED:


HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

1/28/19

Respectfully submitted,

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/s/ Rebecca M. Kopplin
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CC: All Counsel of Record (by ECF)